

SENATE BILL 1489

By Marrero

AN ACT to amend Tennessee Code Annotated, Title 67,
Chapter 6, Part 2, relative to sales and use taxes
and to enact the Out of State Sales Tax Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 6, Part 2, is amended by
adding the following as a new section:

67-6-236.

(a) This section shall be known and may be cited as the "Out of State
Sales Tax Act."

(b) A person making sales of tangible personal property or services as
described in § 67-6-201(12) and taxable under this chapter shall be presumed to
be soliciting business through an independent contractor or other representative
if the person enters into an agreement with a resident of this state under which
the resident for a commission or other consideration, directly or indirectly refers
potential customers, whether by a link on an Internet web site or otherwise, to the
person, if the cumulative gross receipts from sales by the person to customers in
the state who are referred to the person by all residents with this type of an
agreement with the person is in excess of four thousand eight hundred dollars
(\$4,800) during the preceding four (4) quarterly periods ending on the last day of
February, May, August and November. This presumption may be rebutted by
proof that the resident with whom the person has an agreement did not engage
in any solicitation in the state on behalf of the person that would satisfy the nexus
requirement of the United States constitution during the four (4) quarterly periods
in question. Nothing in this section shall be construed to narrow the scope of the

terms independent contractor or other representative for purposes of this chapter.

SECTION 2. This act shall take effect July 1, 2011, the public welfare requiring it.